

REMARKS

On October 31, 2006, Appellant appealed the Examiner's fifth rejection of all of the then-pending claims (claims 1-18) that were based on various combinations of eight prior art references.

On October 31, 2007, the Board of Appeals reversed the Examiner's rejections of claims 1-18.

On November 13, 2007, the Examiner again rejected claims 1-18, citing one additional newly found prior art reference.

On February 13, 2008, Appellant appealed claims 5-15, but did not seek to appeal claims 1-4 and 16-17.

On March 10, 2009, the Board of Appeals indicated that the pending application was not ready for docketing as an appeal and ordered that the application be returned to the Examiner to notify Appellant to file an amendment cancelling claims 1-4 and 16-17, and to have the remaining claims on appeal (5-15 and 18) rewritten in independent form.

On March 13, the Supervisory Examiner sent Appellant a similarly worded paper stating the application is returned to the Examiner for such notification to Appellant.

On April 6, 2009, Appellant filed a Response cancelling claims 1-4 and 16-17, and rewriting the remaining claims on appeal (5-15 and 18) in independent form, and also re-filed the Appeal Brief with the newly amended claims.

On June 15, 2009, the Examiner mailed an Advisory Action refusing to enter the Response, stating that the amendments affect the scope of the other pending claims.

On June 29, 2009, the Examiner mailed a Notification of Non-Compliant Appeal Brief, stating that the Brief is defective because it is based on claims that the Examiner refused to enter.

On June 30, 2009, Appellant telephonically discussed the matter with the Examiner to clarify exactly what the Examiner was requiring in order for the appeal to move forward. Appellant and the Examiner then went through each of the claims and determined that claims 9 and 12 included the limitations of claim 5 (and that claims 9 and 12 should not have included the limitations of claim 5). Appellant then indicated that the Notification provided a one-month response deadline and requested confirmation that this deadline included the filing of the instant Advisory Action Response amending claims 9 and 12 to exclude the limitation of claim 5. The Examiner responded that he could not provide such confirmation and that he would look into the matter upon receipt of the instant Advisory Action Response.

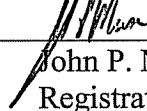
During preparation of the instant Advisory Action Response, Appellant found that the Examiner and Appellant failed to identify that claim 7, like claims 9 and 12, not should not include the limitations of claim 5.

Consistent with the above-mentioned writing, claims 1-4 and 16-17 are canceled herein. Claims 19-22 have been withdrawn pursuant to the earlier restriction requirement. Claims 5-15 and 18 are presented for examination and appeal pursuant to the Board and Examiner's instructions.

For the foregoing reasons, it is respectfully submitted that the rejections set forth in the outstanding Office Action are inapplicable to the present claims. Accordingly, Applicants respectfully request that the Examiner reconsider the rejections and timely pass the application to allowance. In the event applicable, please grant any extensions of time required to enter this paper. The commissioner is hereby authorized to charge any appropriate fees due in connection with this paper, including the fees specified for total independent claims in excess of 3, or credit any overpayments to Deposit Account No. 19-2179.

Respectfully submitted,

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